

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

KIS  
24235

FILE: B-209781.2

DATE: March 28, 1983

MATTER OF: Innocept, Inc. -- Reconsideration

## DIGEST:

Prior decision in which GAO declines to consider complaint of unsuccessful applicant for cooperative agreement is affirmed since GAO believes it is appropriate not to review individual complaints concerning award of grants or cooperative agreements.

Innocept, Inc. requests that we reconsider our decision, Innocept, Inc., B-209781, December 2, 1982, 82-2 CPD 500, in which we dismissed Innocept's complaint in connection with the award of a cooperative agreement for the operation of Rural Assistance Program Project No. 06-60-82023-01 to the National Council of LaRaza by the Minority Business Development Agency (MBDA), Department of Commerce. We refused to consider Innocept's contention that the MBDA failed to follow the methods set forth in the agency's grant administration manual for selecting the recipients of a cooperative agreement and for notifying applicants of award, because we generally do not review complaints concerning the award of cooperative agreements.

Innocept now contends that our Office should treat a complaint concerning the award of a cooperative agreement in the same manner as a protest concerning the award of a contract and review its allegations of improper actions by the MBDA.

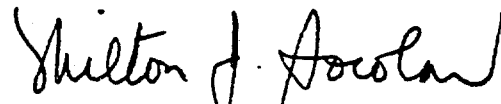
We believe our prior decision was appropriate. Although our Office has the authority to "investigate all matters relating to the receipt, disbursement, and use of public money," 31 U.S.C. § 712, as codified by Pub. L. No. 97-258 (formerly 31 U.S.C. § 53), because of the size of Government operations and our limited resources, we must necessarily exercise discretion in determining the matters in which we become involved.

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See Engineering Service Systems, Inc., B-208553, September 27, 1982, 82-2 CPD 284; Little Harbor Boatyard Corporation--Reconsideration, B-205027.2, January 4, 1982, 82-1 CPD 7. To insure compliance with Federal requirements, primarily involving competitive bidding, imposed through assistance agreements, we do review contract awards made by recipients of Federal grant funds or other financial assistance. See our Public Notice entitled "Review of Complaints Concerning Contracts Under Federal Grants," 40 Fed. Reg. 42406 (1975), in which we indicated that our Office would review complaints of prospective contractors concerning the propriety of contract awards made by recipients of Federal grant funds, but that we did not intend to interfere with the functions and responsibilities of grantor agencies in awarding grants. In addition, we will review complaints of prospective contractors concerning the award of contracts made by recipients of Federal assistance under cooperative agreements, and for the purposes of our review we treat cooperative agreements and grants alike. See Xcavators, Inc., 59 Comp. Gen. 758 (1980), 80-2 CPD 329; Renewable Energy, Inc., B-203149, June 5, 1981, 81-1 CPD 457.

In order to minimize our interference with agencies, we consistently have declined to review complaints of disappointed award recipients regarding the propriety of an award of a grant or a cooperative agreement, except where there is some showing that the agency is using that type of assistance instrument, instead of a contract, to avoid the statutory and regulatory requirements for competition, or that a conflict of interest exists. Civic Action Institute, B-206272, September 24, 1982, 61 Comp. Gen. \_\_\_\_\_, 82-2 CPD 399. Innocept has not alleged in either its protest or request for reconsideration that the MBDA improperly used a cooperative agreement instead of a contract or that any conflict of interest was involved in the award. Innocept is merely questioning the agency's compliance with its procedures for awarding a cooperative agreement and this does not fall within either of the situations in which we will review such awards.

Our prior decision is affirmed.



Acting Comptroller General  
of the United States